

(2001) 09 KAR CK 0054

In the Karnataka High Court

Case No : Regular First Appeal No. 517 of 1995

Canara Bank, Chamarajamohalla Branch, Mysore District

APPELLANT

Vs

M.D. Chikkaswamy

RESPONDENT

Date of Decision : 12-09-2001

Acts Referred:

Banking (Regulation) Act, 1949 — Section 21 A

Citation : AIR 2002 Kar 100 : (2002) 1 CivCC 317 : (2003) 115 CompCas 542 : (2001) ILR (Kar) 5104 : (2001) 6 KarLJ 334 : (2001) 4 KCCR 285 SN

Hon'ble Judges : V.G. Sabhahit, J;P. Vishwanatha Shetty, J

Bench : Division Bench

Advocate : Urval Ramanand, for the Appellant; Karumbaiah, for the Respondent

Final Decision : Dismissed

Judgement

P. Vishwanatha Shetty, J.—The appellant, in this appeal, is a Nationalised Bank and plaintiff before the Trial Court. In this appeal, the appellant has called in question the correctness of the judgment and decree dated 17th April, 1995 made in O.S. No. 43 of 1991 by the Court of Civil Judge at Mysore to the extent it has rejected the claim of the appellant for grant of interest at 16 per cent per annum on the suit claim till the date of realisation.

2. In the course of this judgment, the parties will be referred to with reference to their ranking in the Trial Court.

3. Few facts which may be relevant for the disposal of this appeal, may be stated as hereunder:

(a) Suit O.S, No. 43 of 1991 was instituted by the plaintiff on the file of the Court of Civil Judge at Mysore for recovery of sum of Rs. 6,14,581-00 with costs and current and future interest at 16 per cent per annum compounded half-yearly from the date of the suit till the date of payment. According to the averments made in paragraph 3(a) of the plaint, on 8th October, 1985 the plaintiff-Bank had sanctioned a loan of Rs. 40,000-00 to the defendant for the purpose of digging

bore-well; acquiring pumpset and to develop the coconut plantation. Out of the said sum of Rs. 40,000-00, a sum of Rs. 19,375-00 was sanctioned for the purpose of digging bore-well and acquiring pumpset and another sum of Rs. 20,625-00 was sanctioned as coconut plantation development loan. At paragraph 3(b) of the plaint, the plaintiff had averred that on the request made by the defendant, on 20th of February, 1986 the plaintiff-Bank had sanctioned another sum of Rs. 3,82,000-00 for the purpose of poultry farm; construction of shed and purchase of birds. Further, at paragraph 3(c) of the plaint, the plaintiff has stated that it had sanctioned an additional loan of Rs. 36,000-00 on 17th June, 2000 for completing layer shed to the poultry farm. It is also the case of the plaintiff that the loan amount sanctioned under three heads, referred to above, were withdrawn by the defendant on various dates as per the statement of accounts filed. According to the plaintiff, the defendant had agreed to repay the said loan amount with interest at 12.5 per cent compounded half-yearly subject to variation in interest as directed by the Reserve Bank of India from time to time; and the defendant had also agreed to pay additional interest at 2 per cent per annum over the agreed rate of interest in case of default of repayment.

(b) Though the defendant admitted the taking of loan as set out by the plaintiff, he, inter alia, contended that the plaintiff has not accounted for all the payments made by him and also disputed his liability to pay interest as claimed by the plaintiff on the principal amount advanced till the date of the suit and also from the date of the suit till the date of payment. At paragraph 2 of the written statement, the defendant had further asserted that the entire loan was secured by him for agricultural purposes and the rate of interest charged by the plaintiff in respect of the loan advanced to the defendant was exorbitant and was more than what is fixed by the Reserve Bank of India.

(c) The Trial Court, in the light of the rival pleadings of the parties, framed as many as 11 issues. The plaintiff examined on its behalf two witnesses as P.Ws. 1 and 2 and got marked as many as 44 documents as Exhibits P. 1 to P. 44 in support of its claim. The defendant examined himself as D.W. 1.

(d) The Trial Court, on consideration of the pleadings of the parties and the evidence on record, passed a preliminary decree against the defendant for a sum of Rs. 6,14,581-00 with costs and interest at 6 per cent per annum from the date of the suit till the date of payment. The Trial Court has also granted six months" time to the defendant to make good the suit claim and held that in the event of the defendant failing to pay the amount decreed within six months, the plaintiff is entitled for final decree.

(e) As noticed by us earlier, this appeal is filed by the plaintiff-appellant aggrieved by that portion of the decree passed by the Trial Court wherein the claim of the plaintiff for interest is limited to 6 per cent per annum from the date of the suit till the date of payment as against 16 per cent claimed in the plaint.

4. Sri Urval N. Ramanand, learned Counsel appearing for the plaintiff-Bank,

submitted that the Trial Court has seriously erred in law in granting interest only at the rate of 6 per cent per annum as against the contractual rate of 16 per cent per annum claimed in the plaint from the date of the suit till the date of payment. It is his submission that in view of Section 21A of the Banking Regulation Act, 1949 (hereinafter referred to as "the Regulation Act"), the plaintiff-Bank is entitled for award of contractual rate of interest even from the date of the suit till the date of realisation. In support of this submission, he relied upon the decision of the Supreme Court in the case of State Bank of India Vs. Yasangi Venkateswara Rao, . He submitted that the conclusion reached by the Trial Court that the loan in question is an agricultural loan and as such, the defendant should be directed to pay interest only at 6 per cent per annum from the date of the suit till the date of payment, is erroneous in law.

5. However, Sri Karumbaiah, learned Counsel appearing for the respondent-defendant, while supporting the conclusion reached by the Trial Court that the award of interest at 6 per cent per annum from the date of the suit till the date of payment was fully justified, made three submissions. Firstly, he submitted that since the suit filed by the plaintiff is undisputedly a mortgage suit for recovery of Bank loan, the plaintiff is not entitled for the award of interest at the rate more than 6 per cent per annum from the date of the filing of the suit till the date of payment. In this connection, he drew our attention to Order 34, Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the Code") and also the decision of the Hon"ble Supreme Court in the case of N.M. Veerappa Vs. Canara Bank and Others, . Secondly, he submitted that since the loan advanced to the defendant did not arise out of a commercial transaction, the Trial Court was fully justified in view of Sub-section (1) of Section 34 of the Code, in awarding interest only at 6 per cent per annum from the date of the suit till the date of payment. Finally, he submitted that having regard to the facts and circumstances of the case and in the light of the hardship pleaded by the defendant, the rate of interest at 6 per cent from the date of the suit till the date of payment fixed by the Trial Court on sum of Rs. 6,14,581-00 being highly fair and reasonable, the said interest fixed by the Trial Court is not liable to be interfered with by this Court in exercise of its appellate jurisdiction.

6. In the light of the rival submission made by the learned Counsel appearing for the parties, the only question that would arise for consideration in this appeal is, whether the award of interest at 6 per cent granted by the Trial Court on sum of Rs. 6,14,581-00 from the date of the suit till the date of payment requires to be interfered with by this Court in this appeal?

7. As it can be seen from the observation made by the Trial Court at paragraph 38 of the judgment, the Trial Court has proceeded to award interest at 6 per cent from the date of the suit till the date of payment on the ground that the loan was sanctioned for agricultural purposes and the liability of the defendant did not arise out of any commercial transaction and as such, the proviso given to Section 34(1) of the Code, cannot be made applicable to award higher rate of interest

than 6 per cent. It is not in dispute that the suit was filed for recovery of sum of Rs. 6,14,581-00 as a mortgage suit. The decree made in the suit also shows that a preliminary decree was made for sum of Rs. 6,14,581-00 with interest at 6 per cent per annum from the date of the suit with a further order and decree granting six months" time to the defendant to discharge the decretal claim; and in case of his failure to settle the suit claim, the plaintiff was allowed to seek for a final decree with liberty reserved to him to bring the mortgage properties for sale and realise the decretal amount. A personal decree was also made against the defendant for any amount that may be found due after sale of the mortgage and hypothecated properties. Therefore, from the operative portion of the order made in the judgment and also the decree drawn up, it is clear that a preliminary decree was passed on the basis that the suit filed was a mortgage suit with liberty reserved to the plaintiff to bring the properties mortgaged for sale if the defendant fails to pay the suit claim within six months fixed in the decree from the date of preliminary decree.

8. Now, the question is, if the suit was filed as a mortgage suit and a decree is made on that basis, while awarding interest, whether the Court was required to apply the provisions of Section 34 or Order 34, Rule 11 of the Code? The Division Bench of this Court, in the case of State Bank of Mysore Vs. G.P. Thulasi Bai, , has taken the view that in case of mortgage suits, the Court has a discretion under Order 34, Rule 11 of the Code for not granting contractual rate of interest for the period after the suit. The Hon''ble Supreme Court, in the case of N.M. Veerappa, supra, has taken the view that in case of mortgage suits, it is not permissible for the Court to apply the provisions contained in Section 34 of the Code and it is only the provisions contained in Order 34, Rule 11 of the Code which are required to be applied in the case of such suits. It is useful to refer to the observations made by the Supreme Court at paragraphs 6 and 7 of the judgment, which read as hereunder:

"6. Before advertng to the issues arising under Order 34, Rule 11, we may state that the Trial Court considered the matter in some detail and noted in para 11 of its judgment, a ruling of the Karnataka High Court in State Bank of Mysore's case, supra, that the Court has a discretion under Order 34, Rule 11 for not granting contractual rate of interest for the period after suit. The Trial Court expressly held in para 11 that it was exercising discretion to grant interest only at 6%. On the other hand, the High Court held relying only on Section 34 of the CPC - and that the proviso to Section 34 of the CPC enabled the Court to grant interest at more than 6% pending suit where commercial transactions were involved. This conclusion was arrived even after noticing that the Trial Court had said in para 11 of its judgment that it had discretion so far as pendente lite interest was concerned because of State Bank of Mysore's case, supra.

Section 34 does not apply to mortgage suits:

7. Section 34 of the CPC applies to simple monies, decrees and payment of interest pending such suits. Order 34, Rule 11 of the Civil Procedure Code, deals

with mortgage suits and payment of interest. It is obvious that so far as mortgage suits are concerned, the special provision in Order 34, Rule 11 alone is applicable and not Section 34. This has been laid down in several decisions of this Court and also by the Karnataka High Court in Thulasi Bai's case, *supra*".

(emphasis supplied)

The law laid down by the Apex Court of the country makes it clear that in case of mortgage suits, the rate of interest to be paid is required to be determined by the Court as provided under Order 34, Rule 11 of the Code, and not as provided u/s 34 of the Code, from the date of filing of the suit till the date of payment i.e., from the date of filing of the suit till the date of the preliminary decree and from the date of the preliminary decree till the date of payment. Therefore, the approach made by the Trial Court to fix the rate of interest at 6 per cent per annum from the date of the suit till the date of payment on the basis that the loan in question was availed of by the defendant for the agricultural purposes and the plaintiff is not entitled for higher rate of interest in terms of the proviso given to Section 34 of the Code, in our view, is erroneous in law. In other words, it is made clear that the Trial Court was not justified in examining the question to determine the rate of interest with reference to the provisions contained in Section 34 of the Code. The Court should have determined the rate of interest keeping in mind the provisions contained in Order 34, Rule 11 of the Code. However, since the suit is of the year 1991 and the claim of the plaintiff for the entire suit claim has been decreed, we are of the considered view that there will not be any justification at this stage to remand the matter to the Trial Court to determine the rate of interest from the date of the suit till the date of payment with reference to the provisions contained in Order 34, Rule 11 of the Code. If that is done, it will not only delay the recovery of the amount due to the plaintiff even if calculated at the rate of 6 per cent per annum from the date of the suit till the date of payment and there is every possibility of the parties again challenging the ultimate decision of the Trial Court with regard to the rate of interest to be fixed by the Trial Court resulting in unnecessary delay in final adjudication of the rights of the parties. Therefore, we are persuaded to decide the question once for all in this appeal.

9. The averment made in the plaint and also the evidence of P.W. 1 shows that the contractual rate of interest in respect of the three loans advanced to the defendant was fixed at 12.5 per cent per annum subject to variation in the interest as may be directed by the Reserve Bank of India from time to time with a further liability to pay additional interest at 2 per cent in the event of the defendant committing default in payment of the instalment within the time stipulated. In this connection, it is useful to refer to the evidence of P.W. 1, which reads as hereunder:

Therefore, we are unable to understand or appreciate on what basis the plaintiff has prayed for award of interest at 16 per cent per annum on Rs. 6,14,581-99 compounded half-yearly from the date of the suit till the date of payment It is

needless to point out that the plaintiff is a Nationalised Bank and an instrumentality of the State. It is not like a private money-lender whose object is only to make profit at the cost of the borrowers of loan. Nationalised Banks have larger obligations meant for the good of the people and the society. Therefore, subject to bona fide errors that may have crept in, when the Bank makes a claim for recovery of the amount, it has an obligation to be fairly accurate with regard to its claim both regarding the principal amount claimed and also the rate of interest. The Bank, which has the assistance of competent legal practitioners and experienced staff, is required to apply its mind with regard to the liability of its customers. Therefore, in this case, on the basis of the material on record, we have no hesitation to hold that the plaintiff was totally unjustified in claiming interest at 16 per cent per annum from the date of the suit till the date of payment.

10. Now, the question is, whether the Bank is entitled for award of contractual rate of interest. No doubt, it is the contention of the learned Counsel for the appellant that in view of Section 21A of the Regulation Act, the plaintiff is entitled for award of the contractual rate of interest. We are unable to accede to the said submission of the learned Counsel for the appellant. The decision of the Supreme Court, in the case of State Bank of India, *supra*, strongly relied upon by the learned Counsel for the appellant, is of no assistance to him. In the said case, the only question that came up for consideration before the Hon'ble Supreme Court was with regard to the validity of Section 21A of the Regulation Act. The Hon'ble Supreme Court, while reversing the judgment of the High Court wherein the High Court has taken the view that "Section 21A of the Banking Regulation Act which forbids the Courts from reopening the Bank loans on the ground of excessive interest is not a law enacted by the Parliament with respect to the item of Banking", has taken the view that the said provision was validly enacted. The observation made in paragraph 8 of the said judgment, in our view, does not support the contention of the learned Counsel for the appellant that even subsequent to the filing of the suit insofar as the claim made by the Bank is concerned, the Court is required to award only "contractual rate of interest". On the other hand, the decision of the Hon'ble Supreme Court in the case of Veerappa, *supra*, after considering the effect of Section 21A of the Regulation Act, clearly lays down that the provisions contained in Order 34, Rule 11 of the Code confers discretion on the Court to award interest from the date of the filing of the suit till the date of realisation. In the said case, the Hon'ble Supreme Court, after elaborately considering the law on the subject and closer scrutiny of Order 34, Rule 11 of the Code, has taken the view that the introduction of the word "may" by the 1929 amendment made to the Code in the main part of Order 34, Rule 11, confers certain amount of discretion on the Court insofar as award of interest after the date of the suit was concerned, and it was no longer obligatory on the Courts to direct interest at the contractual rates in all circumstances even if there is no question of the contractual rate being penal, excessive or substantially unfair within the meaning of the Usurious Loans Act,

1918. At paragraph 11 of the judgment, the Court has observed thus:

"11.....But, after 1929, a new Rule 11 was introduced, which used the words "the Court may order payment of interest". The new rule was explained by the Federal Court in AIR 1940 20 (Federal Court) and it was held that this provision gave a certain amount of discretion to the Court so far as interest after date of suit was concerned and it was no longer obligatory after the 1929 Amendment on the Courts to direct interest at the contractual rates up to the date of redemption in all circumstances even if there is no question of the rate being penal, excessive or substantially unfair within the meaning of the Usurious Loans Act, 1918. Approving the above observations of the Federal Court, this Court held on facts, that the mortgage should be granted interest on the principal sum at the contractual rate till date of suit and only simple interest at 6% p.a. on the principal sum adjudged from the date of suit till the date of preliminary decree and again at same 6% p.a. from the date of preliminary decree till date of realisation".

Further, the Supreme Court has observed that the word "may" governs all Sub-clauses of Order 34, Rule 11 i.e., Clauses (a) and (b). At paragraphs 13, 14 and 16 of the judgment, the Supreme Court has observed as follows:

"13. In view of what the Federal Court has said in Jaigobind's case, supra, and what this Court has held in Soli Pestonji Majoo and Others Vs. Gangadhar Khomka, , it is clear that the word "may" in the main part of Order 34, Rule 11 governs all Sub-clauses of Order 34, Rule 11.

14. Therefore under Order 34, Rule 11, Sub-clause (a), the Court may order payment of interest up to the date on or before which payment of the amount found or declared due as per the preliminary decree, in regard to two distinct amounts; firstly, under Sub-clause (a)(i) interest can in the Court's discretion, be directed to be paid on "the principal amount found due on the mortgage" - at the rate payable on the principal or where no such rate is fixed, at such rate as the Court deemed reasonable; secondly, under Sub-clause (iii) interest can in the Court's discretion, be directed to be paid on costs, charges and expenses at such rate not exceeding 6% per annum as the Court may deem reasonable in both these situations the discretion is to be exercised subject to the above provisions.

(B) Interest after date fixed in preliminary decree: Clause (b)

16. Then comes Clause (b) of Order 34, Rule 11 which deals with interest for the period after the date fixed as above in the preliminary decree and up-to-date of payment, on the aggregate of sums mentioned in Clause (a). Here too, the Court could in its discretion, direct payment at such rate as it deemed reasonable".

In the said decision, the Hon'ble Supreme Court also has negated the contention that in view of the provisions contained in Section 21A of the Regulation Act, the Court is required to award contractual rate of interest even from the date of the filing of the suit till the date of payment. The Supreme Court

has taken the view that the discretionary power conferred on the Court under Order 34, Rule 11 of the Code is an independent power and the said power is neither traceable to Section 74 of the Contract Act nor to any power in the Usurious Loans Act, 1918, nor to any State statutes permitting a Court to scale down the contractual rates of interest. The Hon'ble Supreme Court has further held in the said decision that the rate of 6 per cent interest awarded by the Trial Court was proper and has restored the said rate of interest by setting aside the judgment of the High Court which has awarded contractual rate of interest. The Hon'ble Supreme Court, at paragraphs 22, 23 and 26 of the judgment, has observed as follows:

"22. We shall refer to the provision in Section 21A of the Banking Regulation Act, 1949, as introduced by Act 1 of 1984, with effect from 15-2-1984. It reads:

"Section 21A.--Rate of interest charged by banking companies not to be subjected to scrutiny by Courts; Notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive".

Firstly, it will be noticed that the effect of the "non obstante clause" in Section 21A is to override the Central Act namely, the Usurious Loans Act, 1918 and any other "law relating to indebtedness in force in any State". Obviously it does not expressly intend to override the CPC among the Central Statutes. It is now well-settled that the scope and width of the non obstante clause is to be decided on the basis of what is contained in the enacting part of the provision -- Aswini Kumar Ghosh and Another Vs. Arabinda Bose and Another, Further, by no stretch of imagination can the Code of Civil Procedure, 1908 be described as a law relating to indebtedness in force in any State" As stated above, the provision in Section 21A refers, so far as Central legislation is concerned, only to the Usurious Loans Act, 1918 and not to the Code of Civil Procedure, 1908 and it then refers to other laws relating to indebtedness in force in any State. Therefore, the provision of Section 21A of the Banking Regulation Act, 1984 cannot be held to have intended to override a Central legislation like the CPC or Order 34, Rule 11 of the Civil Procedure Code.

23. Secondly, as stated by the Federal Court in Jaigobind's case, supra and by this Court in Soli Pestonji Majoo's case, supra, the discretionary power conferred on the Civil Court under Order 34, Rule 11 to cut down the contract rate of interest for the period from date of suit and even up to the date fixed for redemption by the Court is very much there, even if there was no question of the rate being penal, excessive or substantially unfair within the meaning of the Usurious Loans Act, 1918. This Court observed in Soli Pestonji Majoo's case, supra, as follows:

"It is apparent that the new rule as inserted by the Amending Act 21 of 1929

provides that the Court "may" order payment of interest to the mortgage up to the date fixed for payment as the rate payable on the principal. It was held by the Federal Court in Jaigobind Singh's case, *supra*, that the language of the rule gives a certain amount of discretion to the Court so far as interest pendente lite and subsequent interest is and it was no longer absolutely obligatory on the Courts to decree interest at the contractual rates up to the date of redemption in all the circumstances even if there is no question of the rate being penal, excessive or substantially unfair within the meaning of the Usurious Loans Act, 1918".

In other words the discretionary power given to the Court under Order 34, Rule 11 is an independent power and the power is neither traceable to Section 74 of the Contract Act nor to any power in the Usurious Loans Act, 1918, nor to any State statutes permitting a Court to scale down contractual rates of interest.

26. If, therefore, Section 21A of the Banking Regulation Act, 1949 does not come to the aid of Banks vis-a-vis Order 34, Rule 11 of the Civil Procedure Code, the question whether for the period during the pendency of mortgage suits in Courts, the Courts discretion should continue or whether it should be fettered and if so to what extent and as to what rate of interest and whether there should be any distinction between different kinds of debtors --These are all matters of policy for the legislature and it will be for Parliament to lay down its policies and bring forward such legislation as it may deem fit in accordance with the provisions of the Constitution of India".

In the light of the law laid down by the Hon'ble Supreme Court in the case of N.M. Veerappa, *supra*, as observed by us earlier, the contention of the learned Counsel for the appellant that even from the date of the suit till the date of realisation, the Court is required to grant only contractual rate of interest in the light of Section 21A of the Regulation Act, is required to be rejected as one without any substance.

11. Now, the question is, whether the rate of interest at 6 per cent awarded by the Trial Court in the facts and circumstances of the case can be held to be fair and reasonable? Insofar as the rate of interest from the date of the suit till the date of preliminary decree is concerned, in view of Sub-clause (iii) of Order 34, Rule 11(a) of the Code, the rate of interest that could be awarded by the Court cannot exceed 6 per cent per annum.

12. Now, the question is, what should be the reasonable rate of interest to be awarded from the date of the preliminary decree? The Trial Court, on the basis of the materials on record, has found that the loans in question were advanced for agricultural purposes. In our view, though the learned Counsel for the appellant seriously urged that the loan of Rs. 3,82,000-00 advanced towards poultry fanning cannot be treated as a loan granted for agricultural purposes, we are unable to accede to the said submission in the light of the admission made by P.W. 2 in his evidence that the loan was granted for agricultural purposes. At

paragraph 4 of the evidence, P.W. 2 has stated as under:

From the statement of P.W. 2 extracted above, it is clear that he has admitted that all the three loans advanced by the plaintiff to the defendant in respect of which a claim for sum of Rs. 6,14,581-00 was made, were for agricultural purposes. Even P.W. 1 does not state that the sum of Rs. 3,82,000-00 advanced to the defendant towards poultry farming and another sum of Rs. 36,000-00 advanced for the development of poultry farm were not for agricultural purposes and the liability in respect of the amount had arisen on account of any commercial transaction. It is also necessary to point out that the defendant, who was examined as D.W. 1 in his chief examination, has specifically stated that all the three loans were taken by him for agricultural purposes. In spite of the specific assertion made by the defendant put forward in the written statement and also in his chief examination that all the three loans were taken by him for agricultural purposes, there is not even a suggestion in the cross-examination made to D.W. 1 that the loans in question were obtained by the defendant for the purpose of commercial activities and his liability in respect of which a claim was made in the suit, had arisen out of commercial transaction. Further, the loan applications were not produced. If they were produced, they would have disclosed the nature of the loan. Further, there is no definition of "agricultural purpose" given under the provisions contained in the Code. However, Section 2(A)(1) of the Karnataka Land Reforms Act, 1961, defines "agriculture" as follows:

"2. Definitions.--(A) In this Act, unless the context otherwise requires.--

"Agriculture" includes--

(a)

(aa)

(b).....

(c)

(d) poultry farming;

(e)

(f)

but does not include the cutting of wood only".

From the reading of the said definition of "agriculture" given under the Karnataka Land Reforms Act, it is clear that "agriculture" includes, among other things, poultry farming. No doubt, from the reading of the definition of "agriculture" given u/s 2(A)(1) alone, it will not be possible to take the view that the poultry farming is also an agriculture for the purpose of deciding that the loan sanctioned by a Bank is always for agricultural purposes. However, it depends upon the facts and circumstances of each case. Therefore, in the

present case, if the plaintiff has treated the loan sought for by the defendant as one for agricultural purpose and granted the same, the plaintiff cannot now be permitted to go back on that. As noticed by us earlier, P.W. 2, in his evidence, has admitted that the loans in question were sanctioned for agricultural purposes. On the basis of the evidence adduced by the parties, we are of the view that the loans in question were advanced to the defendant by the plaintiff for "agricultural purposes". Therefore, we are in agreement with the finding recorded by the Trial Court that all the three loans in question advanced to the defendant, were for agricultural purposes. The defendant, in his evidence, admitted his liability in respect of the claim of Rs. 6,14,581-00. Therefore, it is clear that the defendant has taken a reasonable stand before the Court with regard to the claim made by the plaintiff. The defendant, who was examined as D.W. 1, in his evidence, has stated that since there was no price for the produce for three years, he could not pay the installments. Further, the said claim of Rs. 6,14,581-00 as it can be seen from the details set out in paragraph 8 of the plaint, is inclusive of the interest and additional (penal) interest. If all these factors set out above are taken into consideration, we are of the view that it is fair and reasonable to award interest from the date of the preliminary decree till the date of payment only at 6 per cent per annum.

13. In the light of the above conclusion, we do not find any justification to interfere with the rate of interest at 6 per cent awarded by the Trial Court from the date of the suit till the date of payment.

14. Therefore, in the light of the discussion made above, this appeal is liable to be dismissed and accordingly, it is dismissed with costs.